

REMARKSRestriction Requirement

Applicants hereby elect, with traverse, to prosecute Group I, which corresponds to newly added claims 41, 42, 45 and 46 drawn to polypeptides and compositions containing them. Newly added claims 41, 42, 45 and 46 replace original claims 1-3 and 5-8, and are drawn to substantially the same invention, but are of a different scope.

Newly added claims 43 and 44 are drawn to methods of producing the polypeptides. Newly added claims 47-50 are drawn to methods of using the polypeptides. Applicants submit that newly added claims 43, 44 and 47-50 should be examined together with claims 41, 42, 45 and 46, per the Commissioner's Notice in the Official Gazette of March 26, 1996, entitled "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai*, *In re Brouwer* and 35 U.S.C. § 103(b)" which sets forth the rules, upon allowance of product claims, for rejoinder of process claims covering the same scope of products.

Applicants respectfully submit that there is minimal additional burden on the Examiner to examine newly added claims 61-66, drawn to polynucleotides, expression vectors and cells containing them, since claims directed to "polynucleotide inventions" have already been issued in the parent case, which is now US Patent NO. 5,872,234. New claims 61-66 are drawn to substantially the same invention as claims 1-6 of US Patent NO. 5,872,234, but are of a different scope. Applicants respectfully request that the Examiner consider examining the polynucleotide claims 61-66 in addition to the elected claims of Group I in view of the searches and examination which were already conducted with respect to the previously issued claims and the additional burden on Applicants to file, prosecute and maintain yet another application in this family.

In addition, Applicants respectfully submit that the prior art searches required for claims of Group I would substantially overlap with the search required for the antibody claims of Group V. Newly added claims 51-60 are drawn to antibodies to human extracellular matrix protein SEQ ID NO:1, compositions containing them, and methods of making and using them. Hence, there would be no appreciable burden in considering all of the new claims. Applicants reserve the right to prosecute non-elected subject matter in subsequent divisional applications.

If the USPTO determines that a fee is due, the Commissioner is hereby authorized to charge
Deposit Account No. **09-0108**.

Respectfully submitted,

INCYTE GENOMICS, INC.

Date: 5/21/02

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Date: May 21, 2002

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Claims 1-27 have been canceled.

New claims 41-66 have been added.